

REMARKS

This Response responds to the Office Communication dated April 7, 2005. In that communication, the Examiner requested clarification concerning the limitation “self closing diaphragm.” Specifically, Examiner asserts:

Applicant argues that the cited references do not disclose a “self-closing diaphragm.” However, upon review of independent claim 40, the claim language does not disclose this limitation. Moreover, newly submitted claim 70 does not include this limitation either.

After a careful review of the Amendment and Response filed November 12, 2004, Applicant respectfully asserts that (a) the arguments asserted therein appropriately address the limitations in the independent claims, 40 and 70, and (b) the limitation “self closing diaphragm” appears in dependent claims 41, 68, and 71, and the arguments pertaining to this limitation are directed specifically towards these claims.

As to addressing independent claims 40 and 70, Applicant draws Examiner’s attention to the arguments discussing the Brinkerhoff and Cuschieri references with respect to independent claims 40 and 70:

[Brinkerhoff does not] teach passing a medicament through a feed tube or aspirating body fluids in an aspiration tube.

...

Brinkerhoff does not teach an aspiration tube or a feed tube depending from the port body, as required by claims 40 and 70. Further, there is no teaching by Brinkerhoff of infusing or aspirating fluids to and from the body....Brinkerhoff does not teach permanently or semi-permanently implanting a port body into a body.

...

Claims 40 and 70 require permanently or semi-permanently implanting a port body into a body, an aspiration tube depending from the port body and a fluid tube depending from the port body, passing a medicament into a feed tube, and aspirating body fluids in an aspiration tube wherein the body fluids are tested. Brinkerhoff does not teach any of these things.

Pages 6-8.

Cuschieri does not teach permanently or semi-permanently implanting a port body into a body...[T]he access bubble does not have an aspiration tube or a feed tube depending therefrom, as required by claims 40 and 70. Indeed, the deploying means of the Cuschieri device is not configured for allowing tubes to depend

therefrom, the deploying means instead expanding beneath the inner surface of the abdominal wall to form a seal. Claims 40 and 70 require permanently or semi-permanently implanting a port body into a body, an aspiration tube depending from the port body and a fluid tube depending from the port body, passing a medicament into the feed tube, and aspirating body fluids in the aspiration tube wherein the body fluids are tested. Cuschieri does not teach any of these things.

Pages 6-8. These arguments are directed towards the limitations in independent claims 40 and 70, and demonstrate the patentability of these claims.

As to the “self closing diaphragm,” Applicant also demonstrated in the Amendment and Response filed November 12, 2004, that the cited references failed to teach or suggest this limitation. Although Applicant’s arguments concerning this limitation did not explicitly note which claims were being addressed, Applicant hereby clarifies that the arguments as to the “self closing diaphragm” are directed towards dependent claims 41, 68, and 71, where the limitation appears.

CONCLUSION

In light of Applicant’s Amendment and Response filed November 12, 2004, and the above comments, claims 40-45 and 56-81 are patentable over the cited prior art. Thus, it is respectfully requested that the rejection of claims 40-45 and 56-81 be withdrawn.

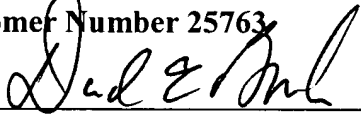
No additional fees have been generated by this Response. However, the Commissioner is hereby authorized to charge any deficiencies and credit any overpayments associated with this Response to Deposit Account No. 04-1420.

This application is in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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